## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:16-cv-328-MOC 3:11-cr-277-MOC-DCK-1

RASHARD DEAN BOYD,	)	
Petitioner,	)	
vs.	)	ODDED
UNITED STATES OF AMERICA,	)	<u>ORDER</u>
Respondent.	)	
	)	

**THIS MATTER** is before the Court on Petitioner's Unopposed Motion to Lift Order of Abeyance, (Doc. 9).

The Court conducted an initial screening of Petitioner's Motion to Vacate filed pursuant to 28 U.S.C. § 2255, (Doc. No. 1), and ordered the Government to respond, (Doc. No. 5). The Government filed a Motion to Stay, (Doc. No. 6), that was granted due to the pendency of <u>United States v. Ali</u>, No. 15-4433, (Doc. No. 7). Although <u>Ali</u> has not yet been finally decided, Petitioner filed a Supplemental Memorandum in Support of Section 2255 Motion arguing that his § 2255 claim can be decided based on <u>United States v. Davis</u>, 139 S.Ct. 2319 (2019), and <u>United States v. Simms</u>, 914 F.3d 229 (4<sup>th</sup> Cir. 2019). Petitioner filed the instant Unopposed Motion to Lift Order of Abeyance, (Doc. No. 9), asking that the Court order the Government to file an Answer or other response within 45 days. The Motion will be granted.

## IT IS, THEREFORE, ORDERED that

- 1. Petitioner's Unopposed Motion to Lift Order of Abeyance, (Doc. 9), is **GRANTED**.
- 2. The Clerk of Court is instructed to lift the Order of Abeyance, (Doc. No. 7), and reopen

this case.

The Respondent shall file an Answer or other response no later than forty-five (45)
 days from entry of this Order.

Signed: September 16, 2019

Max O. Cogburn Jr

United States District Judge

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